IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

CRL.A.No. 651 of 2002()

CC.821/1997 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VARKALA

.

APPELLANT: COMPLAINANT

RENUKA D/O.VASUDEVA KURUP, AGED 26 YEARS
ABHITHALAYAM VEEDU, CHITTAYIKODU DESOM,
NAVAIKULAM VILLAGE

BY ADVS. SRI.R.T.PRADEEP
SRI.CHERUNNIYOOR P. SASIDHARAN NAIR

RESPONDENTS: STATE AND ACCUSED

1. THE STATE OF KERALA, REPRESENTED
BY THE DIRECTOR GENERAL OF PROSECUTION,
HIGH COURT OF KERALA, ERNAKULAM.

2. SASIDHARAN NAIR S/O.SREEDHARAN PILLAI,
P.T.LAND, CHEMMARUTHY DESOM, CHEMMARUTHY VILLAGE.

3. GIRISH S/O.THULASI AMMA, AGED 20 YEARS,
P.T.LAND, CHEMMARUTHY DESOM, CHEMMARUTHY VILLAGE.

4. KOCHUKRISHNA KURUP S/O.NARAYANAN KURUP,
AGED 65 YEARS, VILAYIL VEEDU, CHEMMARUTHY DESOM,
CHEMMARUTHY VILLAGE

5. SAKUNDHALA D/O.LEKSHMI AMMA,
AGED 44 YEARS, P.T.LAND, CHEMMARUTHY DESOM,
CHEMMARUTHY VILLAGE

6. DEVAKI AMMA D/O.LEKSHMI AMMA,
AGED 60 YEARS, VILAYIL VEEDU, CHEMMARUTHY DESOM,
CHEMMARUTHY VILLAGE.

7. THULASI AMMA D/O.DEVAKI AMMA,
AGED 40 YEARS, P.T.LAND, CHEMMARUTHY DESOM,
CHEMMARUTHY VILLAGE.

8. PRASANNAKUMARI D/O.DEVAKI AMMA,
AGED 30 YEARS, P.T.LAND, CHEMMARUTHY DESOM,
CHEMMARUTHY VILLAGE.

BY ADV. SRI.B.KRISHNA MANI -R2 TO R8
PUBLIC PROSECUTOR SRI. THOMAS JOHN AMBOOKKAN -R1

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 17/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.THANKAPPAN, J.

CRL. APPEAL NO.651 OF 2002

Dated this the 17th day of August, 2007

JUDGMENT

Aggrieved by the order of acquittal passed in C.C. No.821of 1997 on the file of the Judicial First Class Magistrate's Court, Varkala, the complainant in the above case has filed this appeal.

2. The case set up against the accused in the complaint - respondents 2 to 8 herein was that on 12.2.1995 at about 3.30 p.m., accused Nos. 1 to 7 formed themselves into an unlawful assembly and in furtherance of their common intention, attacked PW.1, the complainant. She stated in the complainant that accused No.4 ordered to attack her and thereupon accused No.1. forcibly removed her saree and thereby outraged her modesty, accused No.2 hit her on the left hand with the handle of a pickaxe, accused No.3 pelted bricks on her, accused No.4 caught hold of her hair and pushed her down and accused Nos.5 and 6 beat her. It was her further case that accused No.7 attacked her brother who came to help her. She further stated that though she filed a complaint before the police,

no charge sheet was filed by the police and hence she filed the complaint against the accused before the court below alleging commission of offences punishable under Sections 143, 147, 149, 323, 324 and 354 I.P.C. To prove the case against the accused, the complainant herself was examined as PW.1 and six other witnesses were examined as PWs.2 to 7 and Exts.P1 to P3 were produced. On the side of the defence, DWs.1 and 2 were examined and Exts.D1 to D7 were produced. On closing the evidence adduced on behalf of the appellant - complainant, the accused were questioned under Section 313 Cr.P.C. They denied the allegations levelled against them and stated that the case was foisted against them as the civil case, O.S. No.10 of 1995 filed by the mother of the complainant against accused No.4 was decreed in favour of the accused. However, after considering the entire evidence, the trial court found that the appellant - complainant failed to prove any case against respondents 2 to 8 - accused 1 to 7 and acquitted them.

3. Heard the learned counsel appearing for the appellant as well as the learned Public Prosecutor and perused the records made available before this Court.

4. The trial court found that the evidence adduced by the appellant

did not prove that the respondents committed the offences as alleged in the complaint. It has also come out in evidence that a civil case was pending between the appellant and accused No.4 and that the same was decreed in favour of the accused. Further, the trial court also found that a crime was registered against the appellant and others by the police on the basis of the statement given by accused No.4 which also ended in acquittal. The facts proved would show that there was a case and counter case between the parties. In the above circumstances, this Court is of the view that the finding entered by the trial court is based on evidence and it requires no interference. Unless and until compelling circumstances are made out, this Court is reluctant to interfere with an order of acquittal.

The Crl. Appeal is accordingly dismissed, confirming the judgment of the court below.

(K.THANKAPPAN, JUDGE)

sp/

K.THANKAPPAN, J.

CRL.APPEAL NO.651/2002

JUDGMENTs

17TH AUGUST, 2007